

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

TERRANCE DAVIS,

Plaintiff,

v.

TASHEENA COOKE, et al.,

Defendants.

Case No. 3:24-cv-00240-ART-CLB

## DISMISSAL ORDER

Plaintiff Terrance Davis brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated. (ECF No. 1-1). In the interests of judicial economy, on September 18, 2024, the Court proactively entered a minute order in this case directing Plaintiff to file a written change of address within 60 days due to the NDOC's custody change levels at High Desert State Prison and Ely State Prison. (ECF No. 5). The Court added both law libraries to the docket sheet so Plaintiff could receive notices but explicitly told Plaintiff that he had to file a written change of address pursuant to Nevada Local Rule of Practice IA 3-1. (*Id.*) On November 14, 2024, this Court issued an extension order and directed Plaintiff to update his address by November 29, 2024. (ECF No. 7). That deadline expired without an updated address from Plaintiff.

## I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)

(dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

The first two factors, the public's interest in expeditiously resolving this litigation and the Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by the factors favoring dismissal.

The fifth factor requires the Court to consider whether less drastic alternatives can be used to correct the party's failure that brought about the Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally dismissing a case, but must explore possible and meaningful alternatives.”

1 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action  
2 cannot realistically proceed unless Plaintiff is willing to comply with the Court's  
3 orders, the only alternative is to enter a third order setting another deadline. But  
4 the reality of repeating an ignored order is that it often only delays the inevitable  
5 and squanders the Court's finite resources. The circumstances here do not  
6 indicate that this case will be an exception: there is no hint that Plaintiff needs  
7 additional time or evidence that he did not receive the Court's order. Setting a  
8 third deadline is not a meaningful alternative given these circumstances. So the  
9 fifth factor favors dismissal.

## 10 **II. CONCLUSION**

11 Having thoroughly considered these dismissal factors, the Court finds that  
12 they weigh in favor of dismissal. It is therefore ordered that this action is  
13 dismissed without prejudice based on Plaintiff's failure to file an updated address  
14 in compliance with this Court's September 18, 2024, and November 14, 2024,  
15 orders. The Clerk of Court is directed to enter judgment accordingly and close  
16 this case. No other documents may be filed in this now-closed case. If Plaintiff  
17 wishes to pursue his claims, he must file a complaint in a new case and provide  
18 the Court with his current address.

19 It is further ordered that Plaintiff's application to proceed *in forma pauperis*  
20 (ECF No. 4) is denied as moot.

21  
22 DATED: December 20, 2024

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25 ANNE R. TRAUM  
26 UNITED STATES DISTRICT JUDGE  
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